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REMARKS/ARGUMENTS

Claims 6-13; and 37-39 have been cancelled without prejudice, the latter being non-elected claims cancelled at the request of the Examiner.

Claims 17-33 have been retained in this application, and claims 40-51 have been added. Of these claims, claims 17, 23, 30, 31, 40, and 45 are independent claims. The Examiner has allowed claims 17-30.

In the Office Action, the Examiner rejected claims 31-33 under 37 U.S.C. 103(a) as being unpatentable over Cloonan et al. (U.S. 2001/0044845) in view of Swale et al. (U.S. Patent No. 5,822,411). The applicant respectively traverses these rejections.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2143.

It is respectively submitted that the cited references do not teach or suggest all of the claim limitations.

Claim 31, recites "... determining whether said modified settlement procedure can be accommodated; if said modified settlement procedure can be accommodated, modifying said service level associated with said connection..." [emphasis added].

In Cloonan et al., upgrading or downgrading of a customer's service class is based on a validation of the requestor's cable privileges or service level class (see paragraph 8, lines 4-7). In Swale et al., determining whether a charge variation can be accommodated, if performed in the positive, results only in the charge variation being made (see column 3, lines 1-13). In neither

Cloonan et al. nor Swale et al., is a modification of a service level associated with a connection based on a determination of whether the modified settlement procedure can be accommodated.

Thus, as neither of the cited references teaches or suggests this claim limitation, it is submitted that no *prima facie* case of obviousness has been established in respect of claim 31, and therefore claim 31, and the claims depending therefrom (i.e. claims 32 and 33), cannot be deemed obvious.

Clarifying amendments were made to claim 31. The amendments are not believed to be narrowing amendments.

Claims 40-51 are new claims. Claims 40-42 are method claims corresponding to apparatus claims 17-19. Claims 43-44 are method claims corresponding to apparatus claims 21-22. Claims 45-51 are method claims corresponding to apparatus claims 23-29. Because all of the apparatus claims corresponding to the new claims have been deemed allowable, it is believed that the new claims should also be allowable.

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In view of the foregoing, favourable reconsideration and allowance of the application are earnestly solicited.

Respectfully submitted,

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